

AMENDED IN ASSEMBLY APRIL 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1147

Introduced by Assembly Member Gomez

February 22, 2013

An act to amend ~~Section~~ *Sections 4601 and 4612* of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1147, as amended, Gomez. Massage therapy.

Existing law, until January 1, 2015, provides for the voluntary certification of *massage practitioners and* massage therapists by the California Massage Therapy Council. ~~Existing law specifies the requirements for the council to issue to an applicant a certificate as a massage therapist, including, but not limited to, successfully completing curricula in massage and related subjects totaling a minimum of 500 hours, or the credit unit equivalent, a minimum of 250 hours of which shall be from a school approved by the council, and the other 250 hours may be secured as specified.~~

~~This bill would instead increase that minimum of hours to 505 hours, or the credit unit equivalent, a minimum of 250 hours of which would be required to be from a school approved by the council, and the other 255 hours secured as specified.~~

Existing law specifies the requirements for the council to issue to an applicant a certificate as a massage practitioner, including, but not limited to, successfully completing curricula in massage and related subjects totaling a minimum of 250 hours or the credit unit equivalent, as specified.

This bill would additionally require an applicant for a certificate as a massage practitioner to pass a massage and bodywork competency assessment examination that meets generally recognized psychometric principles and standards, and that is approved by the council.

Existing law specifies the requirements for the council to issue to an applicant a certificate as a massage therapist, including, but not limited to, (1) successfully completing curricula in massage and related subjects totaling a minimum of 500 hours or the credit unit equivalent, as specified, or (2) successfully completing curricula in massage and related subjects totaling a minimum of 250 hours, as specified, and passing a massage and bodywork competency assessment examination that meets generally recognized psychometric principles and standards, and that is approved by the council.

This bill would instead require an applicant for a certificate as a massage therapist to successfully complete curricula in massage and related subjects totaling a minimum of 500 hours or the credit unit equivalent, as specified, and to pass the massage and bodywork competency assessment examination as described above.

Existing law authorizes a city, county, or city and county to impose certain requirements on massage establishments or businesses that are the sole proprietorship of an individual certified pursuant to existing state law or that employ or use only persons who are so certified. Existing law authorizes a city, county, or city and county to, among other things, adopt reasonable health and safety requirements, as specified, pertaining to those massage establishments or businesses, and to require an applicant for a business license to operate a massage business or establishment to fill out an application that requests relevant information, as specified.

This bill would authorize a city, county, or city and county to require a massage establishment or business described above to apply for and receive a revocable certificate of registration. The bill would authorize a city, county, or city and county to require from an applicant, among other things, copies of specified identification and a statement that the applicant will only employ or use certified persons to provide massage services and that failure to comply with this provision may result in revocation of the certificate of registration. The bill would authorize a city, county, or city and county to require a massage establishment or business to comply with specified local ordinances, regulations, rules, requirements, or restrictions as a condition granting or maintaining a

revocable certificate of registration and would authorize a city, county, or city and county to revoke a certificate of registration for cause.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4601 of the Business and Professions
2 Code is amended to read:

3 4601. (a) The council shall issue a certificate under this chapter
4 to an applicant who satisfies the requirements of this chapter.

5 (b) (1) In order to obtain certification as a massage practitioner,
6 an applicant shall submit a written application and provide the
7 council with satisfactory evidence that he or she meets all of the
8 following requirements:

9 (A) The applicant is 18 years of age or older.

10 (B) The applicant has successfully completed, at an approved
11 school, curricula in massage and related subjects, totaling a
12 minimum of 250 hours or the credit unit equivalent, that
13 incorporates appropriate school assessment of student knowledge
14 and skills. Included in the hours shall be instruction addressing
15 anatomy and physiology, contraindications, health and hygiene,
16 and business and ethics, with at least 100 hours of the required
17 minimum 250 hours devoted to these curriculum areas.

18 *(C) The applicant has passed a massage and bodywork*
19 *competency assessment examination that meets generally*
20 *recognized psychometric principles and standards, and that is*
21 *approved by the council. The successful completion of this*
22 *examination may have been accomplished before the date the*
23 *council is authorized by this chapter to begin issuing certificates.*

24 ~~(C)~~

25 (D) All fees required by the council have been paid.

26 (2) New certificates shall not be issued pursuant to this
27 subdivision after December 31, 2015. Certificates issued pursuant
28 to this section or subdivision (a) or (c) of Section 4604 on or before
29 December 31, 2015, shall, after December 31, 2015, be renewed
30 without any additional educational requirements, provided that the
31 certificate holder continues to be qualified pursuant to this chapter.

32 (c) In order to obtain certification as a massage therapist, an
33 applicant shall submit a written application and provide the council

1 with satisfactory evidence that he or she meets all of the following
2 requirements:

3 (1) The applicant is 18 years of age or older.

4 ~~(2) The applicant satisfies at least one of the following~~
5 ~~requirements:~~

6 ~~(A) He or she~~

7 ~~(2) The applicant has successfully completed the curricula in~~
8 ~~massage and related subjects totaling a minimum of 505 500 hours~~
9 ~~or the credit unit equivalent. Of this 505 500 hours, a minimum~~
10 ~~of 250 hours shall be from approved schools. The remaining 255~~
11 ~~250 hours required may be secured either from approved or~~
12 ~~registered schools, or from continuing education providers~~
13 ~~approved by, or registered with, the council or the Department of~~
14 ~~Consumer Affairs. After December 31, 2015, applicants may only~~
15 ~~satisfy the curricula in massage and related subjects from approved~~
16 ~~schools.~~

17 ~~(B) The applicant has done both of the following:~~

18 ~~(i) Successfully completed, at an approved school, curricula in~~
19 ~~massage and related subjects totaling a minimum of 250 hours that~~
20 ~~incorporates appropriate school assessment of student knowledge~~
21 ~~and skills. Included in the hours shall be instruction addressing~~
22 ~~anatomy and physiology, contraindications, health and hygiene,~~
23 ~~and business and ethics, with at least 100 hours of the required~~
24 ~~minimum 250 hours devoted to these curriculum areas.~~

25 ~~(ii) Passed~~

26 ~~(3) The applicant has passed a massage and bodywork~~
27 ~~competency assessment examination that meets generally~~
28 ~~recognized psychometric principles and standards, and that is~~
29 ~~approved by the board council. The successful completion of this~~
30 ~~examination may have been accomplished before the date the~~
31 ~~council is authorized by this chapter to begin issuing certificates.~~

32 ~~(3)~~

33 (4) All fees required by the council have been paid.

34 (d) The council shall issue a certificate to an applicant who
35 meets the other qualifications of this chapter and holds a current
36 and valid registration, certification, or license from any other state
37 whose licensure requirements meet or exceed those defined within
38 this chapter. The council shall have discretion to give credit for
39 comparable academic work completed by an applicant in a program
40 outside of California.

1 (e) An applicant applying for a massage therapist certificate
2 shall file with the council a written application provided by the
3 council, showing to the satisfaction of the council that he or she
4 meets all of the requirements of this chapter.

5 (f) Any certification issued under this chapter shall be subject
6 to renewal every two years in a manner prescribed by the council,
7 and shall expire unless renewed in that manner. The council may
8 provide for the late renewal of a ~~license~~ certificate.

9 (g) (1) The council shall have the responsibility to determine
10 that the school or schools from which an applicant has obtained
11 the education required by this chapter meet the requirements of
12 this chapter. If the council has any reason to question whether or
13 not the applicant received the education that is required by this
14 chapter from the school or schools that the applicant is claiming,
15 the council shall investigate the facts to determine that the applicant
16 received the required education prior to issuing a certificate.

17 (2) For purposes of paragraph (1) and any other provision of
18 this chapter for which the council is authorized to receive factual
19 information as a condition of taking any action, the council shall
20 have the authority to conduct oral interviews of the applicant and
21 others or to make any investigation deemed necessary to establish
22 that the information received is accurate and satisfies any criteria
23 established by this chapter.

24 (h) The certificate issued pursuant to this chapter, as well as
25 any identification card issued by the council, shall be surrendered
26 to the council by any certificate holder whose certificate has been
27 suspended or revoked.

28 *SEC. 2. Section 4612 of the Business and Professions Code is*
29 *amended to read:*

30 4612. (a) (1) The holder of a certificate issued pursuant to
31 this chapter shall have the right to practice massage, consistent
32 with this chapter and the qualifications established by his or her
33 certification, in any city, county, or city and county in this state
34 and shall not be required to obtain any other license, permit, or
35 other authorization, except as provided in this section, to engage
36 in that practice.

37 (2) Notwithstanding any other provision of law, a city, county,
38 or city and county shall not enact an ordinance that requires a
39 license, permit, or other authorization to provide massage for
40 compensation by an individual who is certified pursuant to this

1 chapter and who is practicing consistent with the qualifications
2 established by his or her certification, or by a massage business
3 or massage establishment that employs or uses only persons who
4 are certified pursuant to this chapter to provide massage for
5 compensation. No provision of any ordinance enacted by a city,
6 county, or city and county that is in effect before the effective date
7 of this chapter, and that requires a license, permit, or other
8 authorization to provide massage for compensation, may be
9 enforced against an individual who is certified pursuant to this
10 chapter or against a massage business or massage establishment
11 that employs or uses only persons who are certified pursuant to
12 this chapter to provide massage for compensation.

13 (3) Except as provided in subdivision (b), nothing in this section
14 shall be interpreted to prevent a city, county, or city and county
15 from adopting or enforcing any local ordinance that provides for
16 reasonable health and safety requirements for massage
17 establishments or businesses. Subdivision (b) shall not apply to
18 any massage establishment or business that employs or uses
19 persons to provide massage services who are not certified pursuant
20 to this chapter.

21 (b) (1) This subdivision shall apply only to massage
22 establishments or businesses that are sole proprietorships, where
23 the sole proprietor is certified pursuant to this chapter, and to
24 massage establishments or businesses that employ or use only
25 persons certified pursuant to this chapter to provide massage
26 services. For purposes of this subdivision, a sole proprietorship is
27 a business where the owner is the only person employed by that
28 business to provide massage services.

29 (2) (A) Any massage establishment or business described in
30 paragraph (1) shall maintain on its premises evidence for review
31 by local authorities that demonstrates that all persons providing
32 massage services are certified.

33 (B) Nothing in this section shall preclude a city, county, or city
34 and county from including in a local ordinance a provision that
35 requires a business described in paragraph (1) to file copies or
36 provide other evidence of the certificates held by the persons who
37 are providing massage services at the business.

38 (3) A city, county, or city and county may charge a massage
39 business or establishment a business licensing fee, provided that
40 the fee shall be no higher than the lowest fee that is applied to

1 other individuals and businesses providing professional services,
2 as defined in subdivision (a) of Section 13401 of the Corporations
3 Code.

4 (4) Nothing in this section shall prohibit a city, county, or city
5 and county from enacting ordinances, regulations, rules,
6 requirements, restrictions, land use regulations, moratoria,
7 conditional use permits, or zoning requirements applicable to an
8 individual certified pursuant to this chapter or to a massage
9 establishment or business that uses only individuals who are
10 certified pursuant to this chapter to provide massage for
11 compensation, provided that, unless otherwise exempted by this
12 chapter, these ordinances, regulations, rules, requirements,
13 restrictions, land use regulations, moratoria, conditional use
14 permits, and zoning requirements shall be no different than the
15 requirements that are uniformly applied to all other individuals
16 and businesses providing professional services, as defined in
17 subdivision (a) of Section 13401 of the Corporations Code. No
18 provision of any ordinance, regulation, rule, requirement,
19 restriction, land use regulation, moratoria, conditional use permit,
20 or zoning requirement enacted by a city, county, or city and county
21 that is in effect before the effective date of this chapter, and that
22 is inconsistent with this paragraph, may be enforced against an
23 individual who is certified pursuant to this chapter or against a
24 massage business or massage establishment that uses only
25 individuals who are certified pursuant to this chapter to provide
26 massage for compensation.

27 (5) Local building code or physical facility requirements
28 applicable to massage establishments or businesses shall not require
29 additional restroom, shower, or other facilities that are not
30 uniformly applicable to other professional or personal service
31 businesses, nor shall building or facility requirements be adopted
32 that (A) require unlocked doors when there is no staff available to
33 ensure security for clients and massage staff who are behind closed
34 doors, or (B) require windows that provide a view into massage
35 rooms that interfere with the privacy of clients of the massage
36 business.

37 (6) A city, county, or city and county may adopt reasonable
38 health and safety requirements with respect to massage
39 establishments or businesses, including, but not limited to,
40 requirements for cleanliness of massage rooms, towels and linens,

1 and reasonable attire and personal hygiene requirements for persons
2 providing massage services, provided that nothing in this paragraph
3 shall be interpreted to authorize adoption of local ordinances that
4 impose additional qualifications, such as medical examinations,
5 background checks, or other criteria, upon any person certified
6 pursuant to this chapter.

7 (7) Nothing in this section shall preclude a city, county, or city
8 and county from doing any of the following:

9 (A) Requiring an applicant for a business license to operate a
10 massage business or establishment to fill out an application that
11 requests the applicant to provide relevant information, as long as
12 the information requested is the same as that required of other
13 individuals and professionals providing professional services as
14 defined in subdivision (a) of Section 13401 of the Corporations
15 Code.

16 (B) Making reasonable investigations into the information so
17 provided.

18 (C) Denying or restricting a business license if the applicant
19 has provided materially false information.

20 (c) An owner or operator of a massage business or establishment
21 who is certified pursuant to this chapter shall be responsible for
22 the conduct of all employees or independent contractors working
23 on the premises of the business. Failure to comply with this chapter
24 may result in revocation of the owner's or operator's certificate in
25 accordance with Section 4603. Nothing in this section shall
26 preclude a local ordinance from authorizing suspension, revocation,
27 or other restriction of a license or permit issued to a massage
28 establishment or business if violations of this chapter, or of the
29 local ordinance, occur on the business premises.

30 (d) Nothing in this section shall preclude a city, county, or city
31 and county from adopting a local ordinance that is applicable to
32 massage businesses or establishments described in paragraph (1)
33 of subdivision (b) and that does either of the following:

34 (1) Provides that duly authorized officials of the city, county,
35 or city and county have the right to conduct reasonable inspections,
36 during regular business hours, to ensure compliance with this
37 chapter, the local ordinance, or other applicable fire and health
38 and safety requirements.

1 (2) Requires an owner or operator to notify the city, county, or
2 city and county of any intention to rename, change management,
3 or convey the business to another person.

4 (e) Nothing in this chapter shall be construed to preclude a city,
5 county, or city and county from requiring a background check of
6 an owner or operator of a massage establishment who owns 5
7 percent or more of a massage business or massage establishment
8 and who is not certified pursuant to this chapter. The background
9 check may include, but is not limited to, a criminal background
10 check, including requiring submission of fingerprints for a state
11 and federal criminal background check, submission of an
12 application that requires the applicant to state information,
13 including, but not limited to, the applicant's business, occupation,
14 and employment history for the 10 years preceding the date of
15 application, the inclusive dates of same, and the name and address
16 of any massage business or other like establishment owned or
17 operated by any person who is subject to the background check
18 requirement of this subdivision. If a noncertified owner's or
19 operator's background check results in a finding that the city,
20 county, or city and county determines is relevant to owning or
21 operating a massage establishment, then the provisions of
22 subdivisions (a) and (b) shall not apply to that establishment and
23 the city, county, or city and county may regulate that establishment
24 in any manner it deems proper that is in accordance with the law.

25 (f) *(1) Nothing in this chapter shall preclude a city, county, or*
26 *city and county from including a provision in a local ordinance*
27 *that requires the owner or owners of a massage establishment or*
28 *business described in paragraph (1) of subdivision (b) to apply*
29 *for and receive a revocable certificate of registration.*

30 (2) *As part of the application for a certificate of registration, a*
31 *city, county, or city and county may require the following from an*
32 *applicant:*

33 (A) *The full true name under which the massage establishment*
34 *or business will be conducted.*

35 (B) *The present or proposed address where the massage*
36 *establishment or business will be conducted.*

37 (C) *The full true legal name and mailing address of the owner*
38 *or owners of the massage establishment or business.*

39 (D) *A copy of a certificate, or any other evidence of certification,*
40 *issued to each person pursuant to this chapter who will be*

1 *providing massage services at the massage establishment or*
2 *business.*

3 *(E) A copy of a photographic government-issued identification*
4 *card of the owner or owners of the massage establishment or*
5 *business.*

6 *(F) A statement that the applicant will only employ or use*
7 *persons certified pursuant to this chapter to provide massage*
8 *services and that failure to comply with this provision may result*
9 *in revocation of the certificate of registration.*

10 *(G) A statement that the applicant will provide written*
11 *notification of any changes to the original application within 10*
12 *days of that change occurring.*

13 *(H) Authorization for the city, county, or city and county to*
14 *investigate the truth of the information contained in the application.*

15 *(I) The payment of a fee to conduct a background check pursuant*
16 *to subdivision (e) if the owner or owners of the massage*
17 *establishment or business applying for the certificate of registration*
18 *are not certified pursuant to this chapter and own 5 percent or*
19 *more of the massage establishment or business.*

20 *(3) A city, county, or city and county may require a massage*
21 *establishment or business to comply with any applicable local*
22 *ordinance, regulation, rule, requirement, or restriction passed*
23 *pursuant to subdivision (b) as a condition granting or maintaining*
24 *a revocable certificate of registration, including, but not limited*
25 *to, those provisions pertaining to health and safety or zoning.*

26 *(4) A city, county, or city and county may exempt certain classes*
27 *of persons or businesses from compliance with the requirements*
28 *for a certificate of registration.*

29 *(5) A city, county, or city and county may make the certificate*
30 *of registration nontransferable.*

31 *(6) A city, county, or city and county may revoke a certificate*
32 *of registration for cause.*